

Tom Horne  
Superintendent

# N·E·W·S

---

## ARIZONA DEPARTMENT OF EDUCATION

---

Contact: Amy Rezzonico, Press Secretary (602) 542-5072

FOR IMMEDIATE RELEASE:

Tuesday, January 17, 2006

### **SUPERINTENDENT HORNE APPEALS FLORES DECISION; MOVES FOR STAY OF ENFORCEMENT**

PHOENIX (Tuesday, January 17, 2006) - State School Superintendent Tom Horne today filed his notice opposing both aspects of the *Flores* decision: the order exempting English language learners from passing the AIMS test to graduate, and the order imposing sanctions on the State until legislation is passed increasing funding for English language learners. Simultaneously, Motions to Stay the enforcement of both orders were filed with the trial court, a necessary precondition to seeking a stay from the Ninth Circuit Court of Appeals. The motions included many of the arguments ultimately to be included in the appellate briefs.

Horne stated: "Both motions raise constitutional arguments that the Court does not have jurisdiction to dictate education policy to the state of Arizona. While it is good policy to ensure that everything is being done to teach English to English language learners as quickly as possible, this is properly a legislative function; details of education policy should not be dictated to the state by a federal court. Among the bases raised are the 10<sup>th</sup>, 11<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution. The 10<sup>th</sup> Amendment reserves to the states those powers, which should include the details of education policy, not delegated to the federal government by the Constitution. The 11<sup>th</sup> Amendment prohibits suits against states in federal courts. The 14<sup>th</sup> Amendment, which was the purported bases for the statute relied upon by the court, requires equal treatment, and cannot be used to require that one group of students receive favorable treatment over another. Indeed, applying lower standards to English language learners than to other students is the opposite of preferential treatment."

Copies of the motions will be emailed shortly.

###